

Adopted	Rejected
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COMMITTEE REPORT

YES:	23
NO:	0

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 148, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 human services.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 4-10-18-1 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
- 8 chapter:
- 9 "Adjusted personal income" for a particular calendar year means the
- 10 adjusted state personal income for that year as determined under
- 11 section 3(b) of this chapter.
- 12 "Annual growth rate" for a particular calendar year means the
- 13 percentage change in adjusted personal income for the particular
- 14 calendar year as determined under section 3(c) of this chapter.

1 "Budget director" refers to the director of the budget agency
2 established under IC 4-12-1.

3 "Costs" means the cost of construction, equipment, land, property
4 rights (including leasehold interests), easements, franchises, leases,
5 financing charges, interest costs during and for a reasonable period
6 after construction, architectural, engineering, legal, and other
7 consulting or advisory services, plans, specifications, surveys, cost
8 estimates, and other costs or expenses necessary or incident to the
9 acquisition, development, construction, financing, and operating of an
10 economic growth initiative.

11 "Current calendar year" means a calendar year during which a
12 transfer to or from the fund is initially determined under sections 4 and
13 5 of this chapter.

14 "Economic growth initiative" means:

- 15 (1) the construction, extension, or completion of sewerlines,
16 waterlines, streets, sidewalks, bridges, roads, highways, public
17 ways, and any other infrastructure improvements;
- 18 (2) the leasing or purchase of land and any site improvements to
19 land;
- 20 (3) the construction, leasing, or purchase of buildings or other
21 structures;
- 22 (4) the rehabilitation, renovation, or enlargement of buildings or
23 other structures;
- 24 (5) the leasing or purchase of machinery, equipment, or
25 furnishings; or
- 26 (6) the training or retraining of employees whose jobs will be
27 created or retained as a result of the initiative.

28 "Fund" means the counter-cyclical revenue and economic
29 stabilization fund established under this chapter.

30 "General fund revenue" means all general purpose tax revenue and
31 other unrestricted general purpose revenue of the state, including
32 federal revenue sharing monies, credited to the state general fund and
33 from which appropriations may be made. The term "general fund
34 revenue" does not include revenue held in the reserve for tuition
35 support under IC 4-12-1-12 **or transferred to the state family and**
36 **children's reserve fund.**

37 "Implicit price deflator for the gross national product" means the
38 implicit price deflator for the gross national product, or its closest

1 equivalent, which is available from the United States Bureau of
2 Economic Analysis.

3 "Political subdivision" has the meaning set forth in IC 36-1-2-13.

4 "Qualified economic growth initiative" means an economic growth
5 initiative that is:

6 (1) proposed by or on behalf of a political subdivision to promote
7 economic growth, including the creation or retention of jobs or
8 the infrastructure necessary to create or retain jobs;

9 (2) supported by a financing plan by or on behalf of the political
10 subdivision in an amount at least equal to the proposed amount of
11 the grant under section 15 of this chapter; and

12 (3) estimated to cost not less than twelve million five hundred
13 thousand dollars (\$12,500,000).

14 "State personal income" means state personal income as that term
15 is defined by the Bureau of Economic Analysis of the United States
16 Department of Commerce or its successor agency.

17 "Total state general fund revenue" for a particular state fiscal year
18 means the amount of that revenue for the particular state fiscal year as
19 finally determined by the auditor of state.

20 "Transfer payments" means transfer payments as that term is
21 defined by the Bureau of Economic Analysis of the United States
22 Department of Commerce or its successor agency.

23 SECTION 2. IC 4-1-12-19 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
25 UPON PASSAGE]: **Sec. 19. Not later than February 1, May 1,**
26 **August 1, and November 1, the budget agency shall prepare a**
27 **general summary setting forth aggregate figures showing:**

28 (1) the total of actual and proposed state expenditures;

29 (2) the total of actual and anticipated state income; and

30 (3) the estimated surplus or deficit for the remainder of the
31 current state fiscal year and the current budget period.

32 **The summary must include an estimate of the amount of money**
33 **that the budget agency anticipates will be needed in the current**
34 **state fiscal year and the current budget period from the state**
35 **family and children's reserve fund to fund the expenditures of the**
36 **department of child services. A summary under this section must**
37 **be based on the best information available at the time that the**
38 **summary is prepared and must reflect reversions and allotment**

1 **decisions that affect the surplus and deficient estimates.**

2 SECTION 3. IC 12-8-1-16 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: **Sec. 16. This chapter expires January 1, 2010.**

5 SECTION 4. IC 12-8-2-13 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: **Sec. 13. This chapter expires January 1, 2010.**

8 SECTION 5. IC 12-8-6-11 IS ADDED TO THE INDIANA CODE
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
10 UPON PASSAGE]: **Sec. 11. This chapter expires January 1, 2010.**

11 SECTION 6. IC 12-8-8-8 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
13 UPON PASSAGE]: **Sec. 8. This chapter expires January 1, 2010.**

14 SECTION 7. IC 4-12-1-15.8 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE
16 1, 2008]: **Sec. 15.8. (a) As used in this section, "fund" refers to the**
17 **c.**

18 **(b) The state family and children's reserve fund is established**
19 **for the following purposes:**

20 **(1) To fund the costs incurred by the department of child**
21 **services whenever the budget director determines that state**
22 **general fund cash balances are insufficient to cover the**
23 **expenditures.**

24 **(2) To meet revenue shortfalls whenever the budget director,**
25 **after review by the budget committee, determines that state**
26 **tax revenues available for deposit in the state general fund**
27 **will be insufficient to fully fund costs incurred by the**
28 **department of child services in any particular state fiscal**
29 **year.**

30 **(c) The fund consists of the following:**

31 **(1) Money appropriated to the fund by the general assembly.**

32 **(2) Money transferred to the fund under any law.**

33 **(3) Interest earned on the balance of the fund.**

34 **(d) The treasurer of state shall invest the money in the fund not**
35 **currently needed to meet the obligations of the fund in the same**
36 **manner as other public money may be invested. Interest that**
37 **accrues from these investments shall be deposited in the fund.**

38 **(e) Money in the fund at the end of a state fiscal year does not**

revert for any other purpose of the state general fund.

(f) The budget agency shall administer the fund. Whenever the budget director makes a determination under subsection (b)(1) or (b)(2), the budget agency shall notify the auditor of state of the amount from the fund to be used for the department of child services. The auditor of state shall transfer the amount from the fund to the appropriate fund for used by the department of child services. The amount transferred may be used only for the purposes of paying the costs incurred by the department of child services. If the amount is transferred under subsection (b)(1), the amount shall be repaid to the fund from the state general fund before the end of the state fiscal year in which the transfer is made.

(g) This subsection applies in any state fiscal year in which money is reverted to the state general fund from appropriations for the state fiscal year. Not later than June 30 of the state fiscal year the budget agency shall:

(1) determine whether the balance of the fund is at least equal to five percent (5%) of the amount appropriated to the department of child services from state revenues for the immediately following state fiscal year; and

(2) provide for the transfer of an amount to the fund that is equal to the lesser of the following:

(A) The total amount reverted to the state general fund from appropriations made in the state fiscal year.

(B) The amount necessary to maintain a balance in the fund on the immediately following July 1 that is at least equal to five percent (5%) of the amount appropriated from state revenues to the department of child services for the state fiscal year.

SECTION 8. IC 4-13-1-4, AS AMENDED BY P.L.1-2006, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The department shall, subject to this chapter, do the following:

(1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data

and information for the use of the executive department and the legislative department.

(2) Supervise and regulate the making of contracts by state agencies.

(3) Perform the property management functions required by IC 4-20.5-6.

(4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.

(5) Maintain and operate the following for state agencies:

(A) Central duplicating.

(B) Printing.

(C) Machine tabulating.

(D) Mailing services.

(E) Centrally available supplemental personnel and other essential supporting services.

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund is established through which these services may be rendered to state agencies. The budget agency shall determine the amount for the general services rotary fund.

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

(A) Per diem.

(B) For expenses necessarily and actually incurred.

(C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

- 1 (9) Prescribe the amount and form of certified checks, deposits,
2 or bonds to be submitted in connection with bids and contracts
3 when not otherwise provided for by law.
- 4 (10) Rent out, with the approval of the governor, any state
5 property, real or personal:
- 6 (A) not needed for public use; or
7 (B) for the purpose of providing services to the state or
8 employees of the state;
- 9 the rental of which is not otherwise provided for or prohibited by
10 law. Property may not be rented out under this subdivision for a
11 term exceeding ten (10) years at a time. However, if property is
12 rented out for a term of more than four (4) years, the
13 commissioner must make a written determination stating the
14 reasons that it is in the best interests of the state to rent property
15 for the longer term. This subdivision does not include the power
16 to grant or issue permits or leases to explore for or take coal, sand,
17 gravel, stone, gas, oil, or other minerals or substances from or
18 under the bed of any of the navigable waters of the state or other
19 lands owned by the state.
- 20 (11) Have charge of all central storerooms, supply rooms, and
21 warehouses established and operated by the state and serving
22 more than one (1) agency.
- 23 (12) Enter into contracts and issue orders for printing as provided
24 by IC 4-13-4.1.
- 25 (13) Sell or dispose of surplus property under IC 5-22-22, or if
26 advantageous, to exchange or trade in the surplus property toward
27 the purchase of other supplies, materials, or equipment, and to
28 make proper adjustments in the accounts and inventory pertaining
29 to the state agencies concerned.
- 30 (14) With respect to power, heating, and lighting plants owned,
31 operated, or maintained by any state agency:
- 32 (A) inspect;
33 (B) regulate their operation; and
34 (C) recommend improvements to those plants to promote
35 economical and efficient operation.
- 36 (15) Administer, determine salaries, and determine other
37 personnel matters of the department of correction ombudsman
38 bureau established by IC 4-13-1.2-3.

(16) Adopt rules to establish and implement a "Code Adam" safety protocol as described in IC 4-20.5-6-9.2.

(17) Adopt policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.

(18) Administer, determine salaries, and determine other personnel matters of the department of child services ombudsman bureau established by IC 4-13-19-3.

SECTION 9. IC 4-13-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 19. Department of Child Services Ombudsman Bureau

Sec. 1. As used in this chapter, "bureau" refers to the department of child services ombudsman bureau established by section 3 of this chapter. The term includes individuals approved to act in the capacity of ombudsmen by the department of child services ombudsman bureau.

Sec. 2. As used in this chapter, "ombudsman" means an employee of the bureau or an individual approved by the bureau to investigate and resolve complaints that the department of child services endangered the health and safety of any person, or that the department of child services violated specific laws, rules, or written policies.

Sec. 3. The department of child services ombudsman bureau is established as a separate bureau within the department of administration.

Sec. 4. (a) The governor shall appoint a director of the bureau. The governor shall appoint a successor director within thirty (30) days after a vacancy occurs in the position of the director. The director serves at the pleasure of the governor.

(b) The director may employ technical experts and other employees to carry out the purposes of this chapter. However, the director may not hire an individual to serve as an ombudsman who has been employed by the department of child services during the preceding twelve (12) months.

Sec. 5. (a) The ombudsman may receive, investigate, and attempt to resolve complaints that the department of child services:

**(1) violated a specific law, rule, or department written policy;
or**

**(2) endangered the health or safety of any person by an action
or omission.**

**(b) The ombudsman may, on the ombudsman's own initiative,
review a child's death that is sudden, unexpected, or unexplained
to determine whether the department of child services:**

**(1) violated a specific law, rule, or department written policy;
or**

**(2) endangered the health or safety of any person by an action
or omission.**

**(c) The ombudsman shall not investigate a complaint from an
employee of the department of child services that relates to the
employee's employment relationship with the department of child
services.**

**(d) At the conclusion of an investigation of a complaint, the
ombudsman shall report the ombudsman's findings to the
complainant.**

**(e) If the ombudsman does not investigate a complaint, the
ombudsman shall notify the complainant of the decision not to
investigate and the reasons for the decision.**

Sec. 6. (a) An ombudsman shall be given:

**(1) appropriate access to the records of an offender who files
a complaint under this chapter; and**

**(2) immediate access to any correctional facility administered
or supervised by the department of correction.**

**(b) A state or local government agency or entity that has records
that are relevant to a complaint or an investigation conducted by
the ombudsman shall provide the ombudsman with access to the
records.**

(c) A person is immune from:

(1) civil or criminal liability; and

**(2) actions taken under a professional disciplinary procedure
or procedures related to the termination or imposition of
penalties under a contract dealing with an employee or
contractor of the department of child services;**

**for the release or disclosure of records to the ombudsman under
this chapter.**

1 **Sec. 7. (a) The ombudsman shall do the following:**

2 **(1) Establish procedures to receive and investigate complaints.**

3 **(2) Establish access controls for all information maintained by**
4 **the bureau.**

5 **(3) Except as is necessary to investigate and resolve a**
6 **complaint, ensure that the identity of a complainant will not**
7 **be disclosed without:**

8 **(A) the complainant's written consent; or**

9 **(B) a court order.**

10 **(b) The correspondence and communication between the**
11 **ombudsman and any person is a privileged communication.**

12 **Sec. 8. The bureau may adopt rules under IC 4-22-2 necessary**
13 **to carry out this chapter.**

14 **Sec. 9. The ombudsman is not civilly liable for the good faith**
15 **performance of official duties.**

16 **Sec. 10. (a) The director of the bureau shall prepare a report**
17 **each year on the operations of the bureau.**

18 **(b) A copy of the report shall be provided to the following:**

19 **(1) The governor.**

20 **(2) The legislative council.**

21 **(3) The department.**

22 **(4) The department of child services.**

23 **A report provided under this subsection to the legislative council**
24 **must be in an electronic format under IC 5-14-6.**

25 **Sec. 11. A person who:**

26 **(1) intentionally interferes with or prevents the completion of**
27 **the work of the ombudsman;**

28 **(2) knowingly offers compensation to the ombudsman in an**
29 **effort to affect the outcome of an investigation or a potential**
30 **investigation;**

31 **(3) knowingly or intentionally retaliates against an offender**
32 **or another person who provides information to the**
33 **ombudsman; or**

34 **(4) makes threats because of an investigation or potential**
35 **investigation against the ombudsman, a person who has filed**
36 **a complaint, or a person who provides information to the**
37 **ombudsman;**

38 **commits a Class A misdemeanor.**

1 **Sec. 12. The department of administration shall provide and**
 2 **maintain office space for the bureau.**

3 SECTION 10. IC 31-19-19-2, AS AMENDED BY P.L.145-2006,
 4 SECTION 254, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) All files and records
 6 pertaining to the adoption proceedings in:

- 7 (1) the county office of family and children;
- 8 (2) the department; or
- 9 (3) any of the licensed child placing agencies;

10 are confidential and open to inspection only as provided in
 11 IC 31-19-13-2(2), IC 31-19-17, or IC 31-19-25.

12 (b) The files and records described in subsection (a), including
 13 investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its
 14 repeal):

- 15 (1) are open to the inspection of the court hearing the petition for
 16 adoption; ~~and~~
- 17 (2) on order of the court, may be:
 - 18 (A) introduced into evidence; and
 - 19 (B) made a part of the record;
- 20 in the adoption proceeding; **and**

21 **(3) are open to the inspection of the department of child**
 22 **services ombudsman bureau.**

23 SECTION 11. IC 31-25-2-20.4, AS ADDED BY P.L.138-2007,
 24 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2008]: Sec. 20.4. (a) The department shall establish at least
 26 three (3) citizen review panels in accordance with the requirements of
 27 the federal Child Abuse Prevention and Treatment Act under 42 U.S.C.
 28 5106a.

29 (b) A citizen review panel consists of volunteer members who
 30 broadly represent the community in which the panel is established,
 31 including members who have expertise in the prevention and treatment
 32 of child abuse and neglect.

33 (c) The department shall appoint the citizen review panels in the
 34 following manner:

- 35 (1) One (1) panel must be a community child protection team
 36 established in a county under IC 31-33-3-1, selected by the
 37 director of the department with the consent of the team.
- 38 (2) One (1) panel must be either:

- 1 (A) the statewide child fatality review committee established
2 under IC 31-33-25-6; or
3 (B) a local child fatality review team established under
4 IC 31-33-24-6;
5 selected by the director of the department with the consent of the
6 committee or team.
- 7 (3) One (1) panel must be a foster care advisory panel consisting
8 of at least five (5) and not more than eleven (11) members,
9 selected to the extent feasible from the membership of any foster
10 care advisory group previously established or recognized by the
11 department. If the panel consists of seven (7) or fewer members,
12 the panel must include at least one (1) foster parent licensed by
13 the department through a county office and one (1) foster parent
14 licensed by the department through a child placing agency
15 licensed under IC 31-27-6. If the panel consists of more than
16 seven (7) members, the panel must include two (2) foster parents
17 licensed by the department through a county office and two (2)
18 foster parents licensed by the department through a child placing
19 agency licensed under IC 31-27-6. Additional members of the
20 panel must include one (1) or more individuals who are employed
21 by a child placing agency licensed under IC 31-27-6 and who
22 provide services to foster families and children placed by the
23 department in out-of-home placements, and may include other
24 representatives of child welfare service providers or persons who
25 provide training to current or prospective foster parents. All
26 members of this panel must be individuals who are not employees
27 of the department.
- 28 (4) The membership of any additional citizen review panels
29 established under this section shall be determined by the director
30 of the department, consistent with the guidelines for panel
31 membership stated in subsection (b) and the purposes and
32 functions of the panels as described in this section.
- 33 (5) Each citizen review panel shall be appointed for a term of
34 three (3) years beginning July 1, 2007. Upon expiration of the
35 term of the panel described in subdivision (1), the director of the
36 department shall select a community child protection team
37 established in a different county for the succeeding term. Upon
38 expiration of the term of the panel described in subdivision (2),

1 the director of the department shall select a different fatality
2 review team, or committee, if available, for the succeeding term.
3 Panels appointed under subdivision (3) or (4) may be reappointed
4 for successive terms, in the discretion of the director of the
5 department. The director may appoint individuals as needed to fill
6 vacancies that occur during the term of any panel appointed under
7 subdivision (3) or (4).

8 (d) A citizen review panel shall evaluate the extent to which a child
9 welfare agency is effectively discharging the agency's child protection
10 responsibilities by examining:

- 11 (1) the policies and procedures of child welfare agencies;
- 12 (2) if appropriate, specific child protective services cases; and
- 13 (3) other criteria the citizen review panel considers important to
14 ensure the protection of children.

15 (e) Each citizen review panel shall:

- 16 (1) meet at least one (1) time every three (3) months; and
- 17 (2) prepare and make available to the department and the public
18 an annual report that contains a summary of the activities of the
19 citizen review panel.

20 (f) The department shall, not more than six (6) months after the date
21 the department receives a report from a citizen review panel under
22 subsection (e), submit to the citizen review panel a written response
23 indicating whether and how the department will incorporate the
24 recommendations of the citizen review panel. The department shall at
25 the same time provide appropriate child welfare agencies with copies
26 of the department's written response.

27 (g) A child welfare agency shall make all reports and other materials
28 in the child welfare agency's possession available to a citizen review
29 panel established under this section, including any reports and
30 materials that the child welfare agency has received from other
31 agencies.

32 (h) A member of a citizen review panel may not disclose to a person
33 or government official any identifying information that is provided to
34 the citizen review panel about:

- 35 (1) a specific child protective services case or child welfare
36 agency case;
- 37 (2) a child or member of the child's family who is the subject of
38 a child protective services investigation; or

1 (3) any other individuals identified in confidential reports,
2 documents, or other materials.

3 (i) If a member of a citizen review panel violates subsection (h), the
4 department may remove the member from the citizen review panel.

5 (j) A child welfare agency shall cooperate and work with each
6 citizen review panel established under this section.

7 SECTION 12. IC 31-25-5 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2008]:

10 **Chapter 5. Cooperation with Department of Child Services**
11 **Ombudsman**

12 **Sec. 1. As used in this chapter, "bureau" refers to the**
13 **department of child services ombudsman bureau established**
14 **within the department of administration by IC 4-13-19-3. The term**
15 **includes individuals approved to act in the capacity of ombudsmen**
16 **by the department of correction ombudsman bureau.**

17 **Sec. 2. As used in this chapter, "ombudsman" means an**
18 **employee of the bureau or an individual approved by the bureau**
19 **to investigate and resolve complaints regarding the health and**
20 **safety of any person, and violations by the department of specific**
21 **laws, rules, or written policies.**

22 **Sec. 3. The department and each juvenile court shall provide an**
23 **ombudsman with:**

- 24 (1) appropriate access to the records of a child who is the
- 25 subject of an investigation by the ombudsman; and
- 26 (2) immediate access to any facility in which a child who is the
- 27 subject of an investigation by the ombudsman is placed or is
- 28 receiving services funded by the department.

29 SECTION 13. IC 31-27-3-18, AS AMENDED BY P.L.138-2007,
30 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2008]: Sec. 18. (a) A licensee shall keep records regarding
32 each child in the control and care of the licensee as the department
33 requires and shall report to the department upon request the facts the
34 department requires with reference to children.

35 (b) The department shall keep records regarding children and facts
36 learned about children and the children's parents or relatives
37 confidential.

38 (c) The following have access to records regarding children and

1 facts learned about children:

2 (1) A state agency involved in the licensing of the child caring
3 institution.

4 (2) A legally mandated child protection agency.

5 (3) A law enforcement agency.

6 (4) An agency having the legal responsibility to care for a child
7 placed at the child caring institution.

8 (5) The parent, guardian, or custodian of the child at the child
9 caring institution.

10 (6) A citizen review panel established under IC 31-25-2-20.4.

11 **(7) The department of child services ombudsman bureau.**

12 SECTION 14. IC 31-27-4-21, AS AMENDED BY P.L.138-2007,
13 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2008]: Sec. 21. (a) A licensee shall keep records required by
15 the department regarding each child in the control and care of the
16 licensee and shall report to the department upon request the facts the
17 department requires with reference to children.

18 (b) The department shall keep records regarding children and facts
19 learned about children and the children's parents or relatives
20 confidential.

21 (c) The following have access to records regarding children and
22 facts learned about children:

23 (1) A state agency involved in the licensing of the foster family
24 home.

25 (2) A legally mandated child protection agency.

26 (3) A law enforcement agency.

27 (4) An agency having the legal responsibility to care for a child
28 placed at the foster family home.

29 (5) The parent, guardian, or custodian of the child at the foster
30 family home.

31 (6) A citizen review panel established under IC 31-25-2-20.4.

32 **(7) The department of child services ombudsman bureau.**

33 SECTION 15. IC 31-27-5-18, AS AMENDED BY P.L.138-2007,
34 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2008]: Sec. 18. (a) A licensee shall keep records required by
36 the department regarding each child in the control and care of the
37 licensee and shall report to the department, upon request, the facts the
38 department requires with reference to children.

1 (b) The department shall keep records regarding children and facts
 2 learned about children and the children's parents or relatives
 3 confidential.

4 (c) The following have access to records regarding children and
 5 facts learned about children:

- 6 (1) A state agency involved in the licensing of the group home.
- 7 (2) A legally mandated child protection agency.
- 8 (3) A law enforcement agency.
- 9 (4) An agency having the legal responsibility to care for a child
- 10 placed at the group home.
- 11 (5) The parent, guardian, or custodian of the child at the group
- 12 home.
- 13 (6) A citizen review panel established under IC 31-25-2-20.4.

14 **(7) The department of child services ombudsman bureau.**

15 SECTION 16. IC 31-27-6-15, AS AMENDED BY P.L.138-2007,
 16 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2008]: Sec. 15. (a) A licensee shall keep records required by
 18 the department regarding each child in the control and care of the
 19 licensee and shall report to the department upon request the facts the
 20 department requires with reference to children.

21 (b) The department shall keep records regarding children and facts
 22 learned about children and the children's parents or relatives
 23 confidential.

24 (c) The following have access to records regarding children and
 25 facts learned about children:

- 26 (1) A state agency involved in the licensing of the child placing
- 27 agency.
- 28 (2) A legally mandated child protection agency.
- 29 (3) A law enforcement agency.
- 30 (4) A citizen review panel established under IC 31-25-2-20.4.

31 **(5) The department of child services ombudsman bureau.**

32 SECTION 17. IC 31-33-18-1, AS AMENDED BY P.L.145-2006,
 33 SECTION 283, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in section
 35 1.5 of this chapter, the following are confidential:

- 36 (1) Reports made under this article (or IC 31-6-11 before its
- 37 repeal).
- 38 (2) Any other information obtained, reports written, or

photographs taken concerning the reports in the possession of:

(A) the division of family resources;

(B) the county office; or

(C) the department.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family resources;

(2) a county office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24; ~~or~~

(5) the statewide child fatality review committee established under IC 31-33-25; **or**

(6) the department of child services ombudsman bureau;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 18. IC 31-33-18-1.5, AS AMENDED BY P.L.145-2006, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family resources;

(2) a county office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24; ~~or~~

(5) the statewide child fatality review committee established under IC 31-33-25; **or**

(6) the department of child services ombudsman bureau;

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

1 that, if proven, would cause a reasonable person to believe that
2 the child's death or near fatality may have been the result of
3 abuse, abandonment, or neglect.

4 Upon the request of any person, or upon its own motion, the court
5 exercising juvenile jurisdiction in the county in which the child's death
6 or near fatality occurred shall determine whether the allegations
7 contained in the indictment, information, or complaint described in
8 subdivision (2), if proven, would cause a reasonable person to believe
9 that the child's death or near fatality may have been the result of abuse,
10 abandonment, or neglect.

11 (c) As used in this section:

12 (1) "identifying information" means information that identifies an
13 individual, including an individual's:

14 (A) name, address, date of birth, occupation, place of
15 employment, and telephone number;

16 (B) employer identification number, mother's maiden name,
17 Social Security number, or any identification number issued by
18 a governmental entity;

19 (C) unique biometric data, including the individual's
20 fingerprint, voice print, or retina or iris image;

21 (D) unique electronic identification number, address, or
22 routing code;

23 (E) telecommunication identifying information; or

24 (F) telecommunication access device, including a card, a plate,
25 a code, an account number, a personal identification number,
26 an electronic serial number, a mobile identification number, or
27 another telecommunications service or device or means of
28 account access; and

29 (2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

30 (d) Unless information in a record is otherwise confidential under
31 state or federal law, a record described in subsection (a) that has been
32 redacted in accordance with this section is not confidential and may be
33 disclosed to any person who requests the record. The person requesting
34 the record may be required to pay the reasonable expenses of copying
35 the record.

36 (e) When a person requests a record described in subsection (a), the
37 entity having control of the record shall immediately transmit a copy of
38 the record to the court exercising juvenile jurisdiction in the county in

1 which the death or near fatality of the child occurred. However, if the
 2 court requests that the entity having control of a record transmit the
 3 original record, the entity shall transmit the original record.

4 (f) Upon receipt of the record described in subsection (a), the court
 5 shall, within thirty (30) days, redact the record to exclude:

6 (1) identifying information described in subsection (c)(1)(B)
 7 through (c)(1)(F) of a person; and

8 (2) all identifying information of a child less than eighteen (18)
 9 years of age.

10 (g) The court shall disclose the record redacted in accordance with
 11 subsection (f) to any person who requests the record, if the person has
 12 paid:

13 (1) to the entity having control of the record, the reasonable
 14 expenses of copying under IC 5-14-3-8; and

15 (2) to the court, the reasonable expenses of copying the record.

16 (h) The court's determination under subsection (f) that certain
 17 identifying information or other information is not relevant to
 18 establishing the facts and circumstances leading to the death or near
 19 fatality of a child is not admissible in a criminal proceeding or civil
 20 action.

21 SECTION 19. IC 31-33-18-2, AS AMENDED BY P.L.138-2007,
 22 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2008]: Sec. 2. The reports and other material described in
 24 section 1(a) of this chapter and the unredacted reports and other
 25 material described in section 1(b) of this chapter shall be made
 26 available only to the following:

27 (1) Persons authorized by this article.

28 (2) A legally mandated public or private child protective agency
 29 investigating a report of child abuse or neglect or treating a child
 30 or family that is the subject of a report or record.

31 (3) A police or other law enforcement agency, prosecuting
 32 attorney, or coroner in the case of the death of a child who is
 33 investigating a report of a child who may be a victim of child
 34 abuse or neglect.

35 (4) A physician who has before the physician a child whom the
 36 physician reasonably suspects may be a victim of child abuse or
 37 neglect.

38 (5) An individual legally authorized to place a child in protective

- 1 custody if:
- 2 (A) the individual has before the individual a child whom the
- 3 individual reasonably suspects may be a victim of abuse or
- 4 neglect; and
- 5 (B) the individual requires the information in the report or
- 6 record to determine whether to place the child in protective
- 7 custody.
- 8 (6) An agency having the legal responsibility or authorization to
- 9 care for, treat, or supervise a child who is the subject of a report
- 10 or record or a parent, guardian, custodian, or other person who is
- 11 responsible for the child's welfare.
- 12 (7) An individual named in the report or record who is alleged to
- 13 be abused or neglected or, if the individual named in the report is
- 14 a child or is otherwise incompetent, the individual's guardian ad
- 15 litem or the individual's court appointed special advocate, or both.
- 16 (8) Each parent, guardian, custodian, or other person responsible
- 17 for the welfare of a child named in a report or record and an
- 18 attorney of the person described under this subdivision, with
- 19 protection for the identity of reporters and other appropriate
- 20 individuals.
- 21 (9) A court, for redaction of the record in accordance with section
- 22 1.5 of this chapter, or upon the court's finding that access to the
- 23 records may be necessary for determination of an issue before the
- 24 court. However, except for disclosure of a redacted record in
- 25 accordance with section 1.5 of this chapter, access is limited to in
- 26 camera inspection unless the court determines that public
- 27 disclosure of the information contained in the records is necessary
- 28 for the resolution of an issue then pending before the court.
- 29 (10) A grand jury upon the grand jury's determination that access
- 30 to the records is necessary in the conduct of the grand jury's
- 31 official business.
- 32 (11) An appropriate state or local official responsible for child
- 33 protection services or legislation carrying out the official's official
- 34 functions.
- 35 (12) A foster care review board established by a juvenile court
- 36 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the
- 37 court's determination that access to the records is necessary to
- 38 enable the foster care review board to carry out the board's

- 1 purpose under IC 31-34-21.
- 2 (13) The community child protection team appointed under
- 3 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to
- 4 enable the team to carry out the team's purpose under IC 31-33-3.
- 5 (14) A person about whom a report has been made, with
- 6 protection for the identity of:
- 7 (A) any person reporting known or suspected child abuse or
- 8 neglect; and
- 9 (B) any other person if the person or agency making the
- 10 information available finds that disclosure of the information
- 11 would be likely to endanger the life or safety of the person.
- 12 (15) An employee of the department, a caseworker, or a juvenile
- 13 probation officer conducting a criminal history check under
- 14 IC 31-26-5, IC 31-34, or IC 31-37 to determine the
- 15 appropriateness of an out-of-home placement for a:
- 16 (A) child at imminent risk of placement;
- 17 (B) child in need of services; or
- 18 (C) delinquent child.
- 19 The results of a criminal history check conducted under this
- 20 subdivision must be disclosed to a court determining the
- 21 placement of a child described in clauses (A) through (C).
- 22 (16) A local child fatality review team established under
- 23 IC 31-33-24-6.
- 24 (17) The statewide child fatality review committee established by
- 25 IC 31-33-25-6.
- 26 (18) The department.
- 27 (19) The division of family resources, if the investigation report:
- 28 (A) is classified as substantiated; and
- 29 (B) concerns:
- 30 (i) an applicant for a license to operate;
- 31 (ii) a person licensed to operate;
- 32 (iii) an employee of; or
- 33 (iv) a volunteer providing services at;
- 34 a child care center licensed under IC 12-17.2-4 or a child care
- 35 home licensed under IC 12-17.2-5.
- 36 (20) A citizen review panel established under IC 31-25-2-20.4.
- 37 **(21) The department of child services ombudsman bureau.**
- 38 SECTION 20. IC 31-33-24-9, AS AMENDED BY P.L.225-2007,

1 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2008]: Sec. 9. (a) A local child fatality review team consists
3 of the following members:

4 (1) A coroner or deputy coroner from the area served by the local
5 child fatality review team.

6 (2) A representative from:

7 (A) the health and hospital corporation of Marion County as
8 set forth in IC 16-22-8;

9 (B) a local health department established under IC 16-20-2; or

10 (C) a multiple county health department established under
11 IC 16-20-3;

12 from the area served by the local child fatality review team.

13 (3) A physician residing or practicing medicine in the area served
14 by the local child fatality review team.

15 (4) A representative of law enforcement from the area served by
16 the local child fatality review team.

17 (5) A representative from an emergency medical services provider
18 doing business in the area served by the local child fatality review
19 team.

20 (6) A director or manager of a local or regional office of the
21 department from the area served by the local child fatality review
22 team.

23 (7) A representative of the prosecuting attorney from the area
24 served by the local child fatality review team.

25 (8) A pathologist with forensic experience who is licensed to
26 practice medicine in Indiana and who, if feasible, is certified by
27 the American Board of Pathology in forensic pathology.

28 (9) A representative from a fire department or volunteer fire
29 department (as defined in IC 36-8-12-2) from the area served by
30 the local child fatality review team.

31 **(10) A representative from the department of child services**
32 **ombudsman bureau.**

33 (b) If a local child fatality review team is established in one (1)
34 county, the legislative body that voted to establish the local child
35 fatality review team under section 6 of this chapter shall:

36 (1) adopt an ordinance for the appointment and reappointment of
37 members of the local child fatality review team; and

38 (2) appoint members to the local child fatality review team under

1 the ordinance adopted.

2 (c) If a local child fatality review team is established in a region, the
3 county legislative bodies that voted to establish the local child fatality
4 review team under section 6 of this chapter shall:

5 (1) each adopt substantially similar ordinances for the
6 appointment and reappointment of members of the local child
7 fatality review team; and

8 (2) appoint members to the local child fatality review team under
9 the ordinances adopted.

10 SECTION 21. IC 31-33-25-6, AS ADDED BY P.L.145-2006,
11 SECTION 288, IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The statewide child fatality
13 review committee is established to review a child's death that is:

14 (1) sudden;

15 (2) unexpected; or

16 (3) unexplained;

17 if the county where the child died does not have a local child fatality
18 review team or if the local child fatality review team requests a review
19 of the child's death by the statewide committee.

20 (b) The statewide child fatality review committee may also review
21 the death of a child upon request by an individual **or the department**
22 **of child services ombudsman bureau..**

23 (c) A request submitted under subsection (b) must set forth:

24 (1) the name of the child;

25 (2) the age of the child;

26 (3) the county where the child died;

27 (4) whether a local child fatality review team reviewed the death;

28 and

29 (5) the cause of death of the deceased child.

30 SECTION 22. IC 31-33-25-8, AS AMENDED BY P.L.225-2007,
31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2008]: Sec. 8. The statewide child fatality review committee
33 consists of the following members appointed by the governor:

34 (1) a coroner or deputy coroner;

35 (2) a representative from:

36 (A) the state department of health established by IC 16-19-1-1;

37 (B) a local health department established under IC 16-20-2; or

38 (C) a multiple county health department established under

- 1 IC 16-20-3;
- 2 (3) a pediatrician;
- 3 (4) a representative of law enforcement;
- 4 (5) a representative from an emergency medical services provider;
- 5 (6) the director or a representative of the department;
- 6 (7) a representative of a prosecuting attorney;
- 7 (8) a pathologist who is:
 - 8 (A) certified by the American Board of Pathology in forensic
 - 9 pathology; and
 - 10 (B) licensed to practice medicine in Indiana;
- 11 (9) a mental health provider;
- 12 (10) a representative of a child abuse prevention program; ~~and~~
- 13 (11) a representative of the department of education; **and**
- 14 **(12) a representative of the department of child services**
- 15 **ombudsman bureau.**
- 16 SECTION 23. IC 31-33-26-5, AS ADDED BY P.L.138-2007,
- 17 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2008]: Sec. 5. (a) Subject to the accessibility to files provided
- 19 in subsection (b), at least ten (10) levels of security for confidentiality
- 20 in the index must be maintained.
- 21 (b) The index must have a comprehensive system of limited access
- 22 to information as follows:
 - 23 (1) The index must be accessed only by the entry of an operator
 - 24 identification number and a password.
 - 25 (2) A child welfare caseworker must be allowed to access only:
 - 26 (A) cases that are assigned to the caseworker; and
 - 27 (B) other cases or investigations that involve:
 - 28 (i) a family member of a child; or
 - 29 (ii) a child;
 - 30 who is the subject of a case described in clause (A).
 - 31 (3) A child welfare supervisor may access only the following:
 - 32 (A) Cases assigned to the supervisor.
 - 33 (B) Cases assigned to a caseworker who reports to the
 - 34 supervisor.
 - 35 (C) Other cases or investigations that involve:
 - 36 (i) a family member of a child; or
 - 37 (ii) a child;
 - 38 who is the subject of a case described in clause (A) or (B).

- 1 (D) Cases that are unassigned.
- 2 (4) To preserve confidentiality in the workplace, child welfare
- 3 managers, as designated by the department, may access any case,
- 4 except restricted cases involving:
- 5 (A) a state employee; or
- 6 (B) the immediate family member of a state employee;
- 7 who has access to the index. Access to restricted information
- 8 under this subdivision may be obtained only if an additional level
- 9 of security is implemented.
- 10 (5) Access to records of authorized users, including passwords, is
- 11 restricted to:
- 12 (A) users designated by the department as administrators; and
- 13 (B) the administrator's level of access as determined by the
- 14 department.
- 15 (6) Ancillary programs that may be designed for the index may
- 16 not be executed in a manner that would circumvent the index's
- 17 log-on security measures.
- 18 (7) Certain index functions must be accessible only to index
- 19 operators with specified levels of authorization as determined by
- 20 the department.
- 21 (8) Files containing passwords must be encrypted.
- 22 (9) There must be two (2) additional levels of security for
- 23 confidentiality as determined by the department.
- 24 **(10) The department of child services ombudsman bureau**
- 25 **shall have unlimited access to the index concerning:**
- 26 **(A) complaints filed with; or**
- 27 **(B) cases being investigated by;**
- 28 **the department of child services ombudsman bureau.**
- 29 SECTION 24. IC 31-34-21-1, AS AMENDED BY P.L.146-2006,
- 30 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 31 JULY 1, 2008]: Sec. 1. (a) At any time after the date of an original
- 32 dispositional decree, the juvenile court may order the department to file
- 33 a report on the progress made in implementing the decree.
- 34 (b) The juvenile court shall order the department to file a report
- 35 every three (3) months after the dispositional decree is entered on the
- 36 progress made in implementing the decree.
- 37 (c) If, after reviewing the report, the juvenile court seeks to consider
- 38 modification of the dispositional decree, the juvenile court shall

1 proceed under IC 31-34-23.

2 **(d) A juvenile court may refer a case to the department of child**
 3 **services ombudsman bureau to investigate the implementation of**
 4 **a dispositional decree.**

5 SECTION 25. IC 31-38-1-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Each committee has
 7 the following members:

- 8 (1) The director of the county office of family and children or the
 9 director's designee.
- 10 (2) The director of the community mental health center or a
 11 managed care provider (as defined in IC 12-7-2-127(b)) serving
 12 the child's area of residence or the director's designee.
- 13 (3) The superintendent of the school corporation in which the
 14 child is legally settled or the superintendent's designee.
- 15 (4) The child's parent or guardian, who is a nonvoting member.
- 16 (5) If a guardian ad litem has been appointed, the child's guardian
 17 ad litem, who is a nonvoting member.
- 18 (6) If a special advocate has been appointed, the child's court
 19 appointed special advocate, who is a nonvoting member.
- 20 (7) If requested by the chairman, a representative of the local
 21 health department, who is a nonvoting member.
- 22 (8) If requested by the chairman, a representative of any other
 23 agency or community organization, who is a nonvoting member.

24 SECTION 26. IC 31-39-2-6, AS AMENDED BY P.L.145-2006,
 25 SECTION 359, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2008]: Sec. 6. The records of the juvenile court
 27 are available without a court order to:

- 28 (1) the attorney for the department of child services; or
- 29 (2) any authorized staff member of:
 - 30 (A) the county office;
 - 31 (B) the department of child services; ~~or~~
 - 32 (C) the department of correction; **or**

33 **(D) the department of child services ombudsman bureau.**

34 SECTION 27. IC 31-39-4-7, AS AMENDED BY P.L.145-2006,
 35 SECTION 361, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2008]: Sec. 7. The records of a law enforcement
 37 agency are available, without specific permission from the head of the
 38 agency, to: ~~the~~

1 **(1) the** attorney for the department of child services or any
 2 authorized staff member; **or**

3 **(2) any authorized staff member of the department of child**
 4 **services ombudsman bureau.**

5 SECTION 28. IC 31-39-9-1, AS ADDED BY P.L.67-2007,
 6 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2008]: Sec. 1. The following entities and agencies may
 8 exchange records of a child who is a child in need of services or has
 9 been determined to be a delinquent child under IC 31-37-1-2, if the
 10 information or records are not confidential under state or federal law:

11 (1) A court.

12 (2) A law enforcement agency.

13 (3) The department of correction.

14 (4) The department of child services.

15 (5) The office of the secretary of family and social services.

16 (6) A primary or secondary school, including a public or
 17 nonpublic school.

18 **(7) The department of child services ombudsman bureau.**

19 SECTION 29. IC 34-30-2-39.6 IS ADDED TO THE INDIANA
 20 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2008]: **Sec. 39.6. IC 4-13-19-6 (Concerning**
 22 **a person who releases information to the department of child**
 23 **services ombudsman).**

24 SECTION 30. IC 34-30-2-39.7 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2008]: **Sec. 39.7. IC 4-13-19-9 (Concerning**
 27 **the department of child services ombudsman).".**

28 Page 1, between lines 3 and 4, begin a new paragraph and insert:

29 "SECTION 32. [EFFECTIVE JULY 1, 2008] **There is**
 30 **appropriated one hundred fifty thousand dollars (\$150,000) to the**
 31 **department of administration from the state general fund for the**
 32 **purposes of the total operating expenses of the department of child**

1 **services ombudsman bureau, beginning July 1, 2008, and ending**
2 **June 30, 2009."**

3 Renumber all SECTIONS consecutively.
 (Reference is to SB 148 as printed January 11, 2008.)

and when so amended that said bill do pass.

Representative Crawford